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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,938	08/02/2006	Shai Stein	STEIN 12	6653
1444 7590 09/14/2010 BROWDY AND NEIMARK, P.L.L.C. 624 NINTH STREET, NW SUITE 300 WASHINGTON, DC 20001-5303				
EXAMINER				
CATTUNGAL, AJAYP				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/587,938

Applicant(s)

STEIN ET AL.

Examiner

AJAY P. CATTUNGAL

Art Unit

2467

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This office action has been examined. Claims 26-44 are pending.

Response to Arguments

2. Applicant's arguments filed on June 23, 2010 have been fully considered but they are not persuasive.

The Examiner thanks the applicant to point out the fact that VDSL technology is a more advanced technology than the ADSL technology. The Applicant on page 4 of the remarks argues that "Applicant provides the inventive option to the subscriber of receiving the default advanced service DABT without changing the card". The Examiner would like to point out that the reference does not teach of changing the card for the default ADSL technology. It only has to change the card if the subscriber wants to subscribe to a more advanced technology i.e. VDSL.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 26,27, 35-38, 44, are rejected under 35 U.S.C. 102(e) as being anticipated by Cutillo et al. (US 2006/0228113 A1).

Re claims 26, 35, 44, Cutillo et al. discloses a method of providing subscribers

with communication services in accordance with their agreements with a service provider, the method comprises: determining a first plurality of subscribers to be connected to the service provider via a distribution unit located in an access network (See Fig 1 item 24 is the plurality of customers and the distribution unit is item 22); selecting an advanced broadband technology to be produced by the distribution unit to be a minimal default technology (DABT) (See Fig 1 the minimum default technology is ADSL) ; in the distribution unit, arranging a second plurality of substantially uniform communication devices for serving the first plurality of subscribers, so that said second plurality either comprises only uniform communication devices using the DABT, or comprises said uniform communication devices and also an exceptional communication device using a more advanced broadband technology than said DABT (See Fig 1 shows a second plurality of uniform communication device i.e. DABT are the ADSL modems and the more advanced broadband technology would be VDSL), and providing for each of said subscribers, irrespective of its individual agreement reached with the service provider, an individual permanent communication link for supplying, from one of the communication devices, respective broadband communication services by using either said DABT or said more advanced broadband technology (See Fig 1 each of the customers are connect to the distribution unit 22 by ADSL (DABT) or more advanced service line VDSL), and enabling each of the plurality of subscribers to receive services in accordance with their respective agreements with the service provide(Para 29 and 31 teaches of connecting multiple subscribers of the ONU 22

and providing video, telephone and internet data services.).

Re claim 27, Cutillo et al. discloses a method, wherein said DABT is VDSL (Very high data rate Digital Subscriber Line) (See Fig 1 item 26).

Re claim 36, Cutillo et al, discloses a distribution unit, adapted to provide a more technologically advanced communication service to a limited number of the subscribers (See Fig 1 VDSL).

Re claim 37, Cutillo et al. discloses a distribution unit, wherein said broadband communication service is a technologically advanced type of communication service selected from a non-exhaustive list comprising: ADSL (Asymmetrical Digital Subscriber Line), VDSL (Very high data rate DSL), SHDSL (Single line High bit-rate DSL) (Para 29 lines 1-7).

Re claim 38, Cutillo et al. discloses a distribution unit , comprising a plurality of communication devices capable of providing one and the same technologically advanced broadband communication service to all broadband and narrowband subscribers associated with the unit (See Fig 1 and Para 31 teach of having broadband technology to connect customers and the same technology is used in providing telephone services).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
7. Claim 28-29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cutillo et al. (US 2006/0228113 A1) in view of Czerwec et al. (5,903,372).

Re claim 28, Cutillo et al. discloses the claimed invention as set forth in claim 26 above. Cutillo et al. does not explicitly disclose a method, wherein at least one of the subscribers is entitled to narrowband services only. However Czerwec et al. discloses a method, wherein at least one of the subscribers is entitled to narrowband services only (Col 3 lines 11-13). It would have been obvious to one having ordinary skill in the art at the time of the invention to use the method of remote addition of video services to a telephony customer of Czerwec et al. method of having a distribution unit that could serve a default DSL and more advanced DSL line from the same box to different subscribers or Cutillo et al. in order to manage and control optical networks and specifically to manage and control of passive optical network operative providing digital subscriber line service.

Re claim 29, Cutillo et al. discloses the claimed invention as set forth in claim 26

above. Cutillo et al. does not explicitly disclose a method, further comprising preventing the use, by a particular subscriber, of communication services not included in the agreement between said particular subscriber and the service provider. However Czerwec et al. a method, further comprising preventing the use, by a particular subscriber, of communication services not included in the agreement between said particular subscriber and the service provider (Col 4 lines 22-35 and Col 3 lines 11-13 Col 6 lines 7-12 teaches of adding video service to primary subscribers, that only subscribe to telephone services) It would have been obvious to one having ordinary skill in the art at the time of the invention to use the method of remote addition of video services to a telephony customer of Czerwec et al. method of having a distribution unit that could serve a default DSL and more advanced DSL line from the same box to different subscribers or Cutillo et al. in order to manage and control optical networks and specifically to manage and control of passive optical network operative providing digital subscriber line service.

8. Claims 30, 31, 33, 39, 40-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cutillo et al. (US 2006/0228113 A1) in view of DeLangis et al. (US 2005/0078690 A1).

Re claim 30, Cutillo et al. discloses a method, of providing a narrowband subscriber with communication services in a converged broadband and narrowband communications access network, the method comprises establishing for said narrowband subscriber a communication link capable of carrying advanced broadband communication services as a minimum default technology (See Fig 1 and

Para 31 teach of providing multiple services one of which is narrowband service i.e. telephone service). Cutillo et al. does not explicitly disclose a method, wherein preventing the use by said subscriber of all communication services not included in an agreement between said subscriber and a service provide. However DeLangis et al. disclose a method, wherein preventing the use by said subscriber of all communication services not included in an agreement between said subscriber and a service provide (Para 49 lines 1-8). It would have been obvious to one having ordinary skill in the art at the time of the invention to use the method of preventing customers from accessing services that the users is not entitled to of DeLangis et al. with the method of having a distribution unit that could serve a default DSL and more advanced DSL line from the same box to different subscribers or Cutillo et al. in order to manage and control optical networks and specifically to manage and control of passive optical network operative providing digital subscriber line service.

Re claim 31, note that DeLangis et al. disclose a method, wherein said communication link is being established between the narrowband subscriber and a communication device installed in a distribution unit and supporting said broadband communication services (Para 49 lines 1-8).

Re claim 33, note that DeLangis et al. discloses a method, wherein said preventing is performed by providing at least one of the subscribers with a Customer Premises Equipment (CPE) unit specifically configured to provide only services in accordance with the subscriber's agreement with the service provider (Para 49 lines 1-8).

Re claim 39, Cutillo et al. disclose a service filtering means operative to derive, from a technologically advanced broadband communication service reserved for a particular subscriber at a distribution unit in an access network (See Fig 1 Subscribers connect to VDSL modems) , wherein said service reserved for the particular subscriber is at least a minimal default advanced broadband communication service (DABT) selected for the distribution unit and available for delivering to the subscriber via an individual permanent communication link (See Fig 1 Users are connected using a default advanced broadband communication services i.e. VDSL through a permanent link). Cutillo et al. disclose a service filtering means operative to derive, only communication services agreed between said particular subscriber and a service provider. However DeLangis et al. disclose a service filtering means operative to derive, only communication services agreed between said particular subscriber and a service provider (Para 49 lines 1-8). It would have been obvious to one having ordinary skill in the art at the time of the invention to use the method of preventing customers from accessing services that the users is not entitled to of DeLangis et al. with the method of having a distribution unit that could serve a default DSL and more advanced DSL line from the same box to different subscribers or Cutillo et al. in order to manage and control optical networks and specifically to manage and control of passive optical network operative providing digital subscriber line service.

Re claim 40, note that DeLangis et al. discloses a service filtering means, being configurable(Para 107).

Re claim 41, note that DeLangis et al. discloses a service filtering means, remotely configurable and associated with a communication device providing said broadband communication service at the distribution unit (Para 107).

Re claim 42, note that DeLangis et al. disclose a service filtering means, comprising a Customer's Premises Equipment (CPE) unit for use in said subscriber's premises (Para 49 lines 1-8).

Re claim 43, note that DeLangis et al. disclose a distribution unit, comprising a service filtering means operative to derive, from the technologically advanced broadband communication service reserved for a particular subscriber at the distribution unit, only communication services agreed between said particular subscriber and a service provider (Para 49 lines 1-8).

9. Claims 32, 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cutillo et al. (US 2006/0228113 A1) in view of DeLangis et al. (US 2005/0078690 A1) in further view of Czerwec et al. (5,903,372).

Re claim 32, Cutillo et al. in view of DeLangis et al. discloses the claimed invention as set forth in claim 30. Cutillo in view of DeLangis et al. does not explicitly disclose a method, wherein said preventing is performed by remotely configuring the communication device located at the distribution unit and associated with said particular subscriber, where the configuration is carried out from a Local Exchange connected to the distribution unit. However Czerwec et al. disclose a method, wherein said preventing is performed by remotely configuring the communication

device located at the distribution unit and associated with said particular subscriber, where the configuration is carried out from a Local Exchange (Col 4 line 25-30 remote terminal) connected to the distribution unit (Col1 lines 10-18, Col 3 lines 11-13 and Col 4 lines 51-59). It would have been obvious to one having ordinary skill in the art at the time of the invention to use the method of remote addition of video services to a telephony customer of Czerwiec et al. method of having a distribution unit that could serve a default DSL and more advanced DSL line from the same box to different subscribers or Cutillo et al. in view of DeLangis et al. in order to manage and control optical networks and specifically to manage and control of passive optical network operative providing digital subscriber line service.

Re claim 34, note that Czerwiec et al. discloses a method, further comprising a step of reconfiguring (remotely provided with video services at a later date) according to an updated subscriber's agreement with the service provider (Col 3 lines 11-13 and Col 6 lines 7-12).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AJAY P. CATTUNGAL whose telephone number is (571)270-7525. The examiner can normally be reached on Monday- Friday 7:30 - 5:00, Alternating Fridays OFF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pankaj Kumar can be reached on 571-272-3011. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. P. C./
Examiner, Art Unit 2467

/Pankaj Kumar/
Supervisory Patent Examiner, Art Unit 2467